



Special Containers of Wine

The *Excise Act, 2001* (“the Act”) provides for the use of special containers of wine and indicates how and by whom they may be used. This memorandum provides an overview of these provisions. It also provides information on where to report quantities relating to special containers of wine on an excise duty return.

Note: This version of EDM4.8.1 replaces the one dated April 2007.

- Disclaimer** The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or contact any Canada Revenue Agency (CRA) regional excise duty office for additional information. These offices are listed in Excise Duty Memorandum 1.1.2, [Regional Excise Duty Offices](#).
- Proposed regulations** The information in this memorandum concerning the markings on special containers of wine is based on the draft Regulations Respecting the Marking of Special Containers. Any commentary in this memorandum should not be taken as a statement by the CRA that these regulations will in fact be made in their current form.

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General

- Meaning of “special container”**
s 2 1. The concept of special containers of wine was introduced to address current industry practices. Special containers of wine are containers with a capacity of more than 100 litres. They are used (after having been marked) at bottle-your-own premises in provinces where individuals are permitted to purchase and bottle their own wine.
- Capacity and material** 2. The maximum capacity and the material of construction of special containers of wine are not restricted under the Act. These containers may be constructed of any material and include steel drums, plastic drums or totes, and wood barrels.

La version française du présent document est intitulée *Contenants spéciaux de vin*.

Marked special containers

Meaning of “mark” and “packaged”
s 2

3. To “mark” a special container of wine means to mark in the prescribed form and manner to indicate that the container is intended for delivery to and use at bottle-your-own premises. Wine in a marked special container is considered to be packaged wine.

Bottle-your-own premises
s 2

4. Bottle-your-own premises may purchase and use marked special containers of wine on a duty-paid basis. Bottle-your-own premises means premises in which, in accordance with the laws of the province where the premises are located, alcohol is supplied from a marked special container for the purpose of being packaged by a purchaser.

Markings on special containers

What markings must show
Draft Regulations Respecting the Marking of Special Containers
s 1 and 3

5. The markings on a special container of wine must

- be legible and clearly visible during normal handling;
- be capable of remaining in place until the container is emptied; and
- indicate, in English and French, that the content is packaged wine and that the container is intended for delivery to, and for use at, a bottle-your-own premises.

Who can mark special containers

Domestic wine
ss 83(1)

6. Wine licensees are the only persons authorized by the Act to mark special containers of domestic wine.

Marking imported special containers
s 84 and 85

7. Where a special container of wine imported by an excise warehouse licensee is not marked when it is reported under the Customs Act, it must be placed in a sufferance warehouse where the excise warehouse licensee, or any person, may mark the special container.

Meaning of “sufferance warehouse”

8. A “sufferance warehouse” has the same meaning as in subsection 2(1) of the Customs Act.

Possession and importation of special containers

Unmarked special containers

9. Wine placed in a special container that is not marked with the prescribed information is considered to be bulk wine. Only persons authorized by the Act, i.e., wine licensees, licensed users or alcohol registrants, may possess bulk wine.

Marked special containers
ss 88(3)

10. Wine in a marked special container is considered to be packaged wine. The following persons may possess non-duty-paid marked special containers of wine:

- an excise warehouse licensee in its excise warehouse;
- a prescribed person who is transporting the special container of wine under prescribed circumstances and conditions, as described in paragraph 13 of this memorandum; or
- a sufferance warehouse licensee in their sufferance warehouse, if the special container is imported.

Importing special containers

11. Only an excise warehouse licensee may import marked special containers of wine.

Transportation of special containers

Unmarked containers
para 70(2)(b), 70(2)(c)
and 70(2)(d)

12. Wine in a special container that is not marked with prescribed information is considered to be bulk wine and, accordingly, may only be transported by:

- a wine licensee;
- a licensed user who imported the wine or if the wine was produced or imported by a wine licensee; or
- an alcohol registrant, if the wine was imported by a licensed user or the wine was produced or imported by a wine licensee.

Marked containers
ss 88(3)
*Regulations Respecting
the Possession of Non-
duty-paid Packaged
Alcohol*
s 2

13. A non-duty-paid marked special container of wine may be transported by

- a person licensed as a customs bonded carrier if the special container is imported; or
- a person with documentation that provides evidence that they are transporting the special container on behalf of an excise warehouse licensee.

14. Additional information on the transportation of wine will be provided in Excise Duty Memorandum 4.2.1, *Possession and Transportation of Wine*.

Warehousing of marked special containers

15. Wine in a special container of wine is deemed to be packaged wine at the time the container is marked with the prescribed information as outlined in paragraph 5 of this memorandum. At that time, duty on the wine must be paid or the wine must be entered into an excise warehouse.

Imported container to be
warehoused
s 86

16. In the case of non-duty-paid imported marked special containers of wine, the excise warehouse licensee who imports the container must immediately enter it into its excise warehouse when the wine is released under the Customs Act.

17. Additional information on importing special containers of wine will be provided in Excise Duty Memorandum 4.5.1, *Importing and Exporting Wine*.

When duty payable
ss 136(1)

18. Duty is payable on wine in a marked special container when it is removed from an excise warehouse for entry into the duty-paid market, i.e., when it is sent to a bottle-your-own premises. The duty is payable by the excise warehouse licensee.

Removal of markings from a marked special container

Returning to bulk
inventory
s 156

19. A wine licensee who has marked a special container of wine may remove the container from its excise warehouse and return the wine to the bulk wine inventory if the licensee removes the container's marking in an approved manner.

Approved manner of
removing markings from
a special container

20. A wine licensee who wishes to return wine from a marked special container to the bulk inventory must ensure that the markings on the container of wine are fully removed, covered or obscured in a manner that renders them illegible.

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| Contacting the CRA | 21. Wine licensees must contact their regional excise duty office for approval of their method of removing the markings. These offices are listed in Excise Duty Memorandum 1.1.2, <i>Regional Excise Duty Offices</i> . |
| Bulk wine inventory | 22. Once the markings are removed, the wine in a special container is no longer considered to be packaged wine and must be returned to the bulk wine inventory of the wine licensee. |
| Documentation | 23. Wine licensees must ensure that they retain adequate records to document any wine that is returned to bulk inventory. |

Removal of wine from a marked special container

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| Removal of wine ss 93(1) | 24. A purchaser of the wine at bottle-your-own premises is the only person who may remove wine from a marked special container. |
| Exception – returned container ss 93(2) | 25. An excise warehouse licensee may remove the wine from a marked special container that has been returned by an operator of bottle-your-own premises for the purpose of destroying the wine in a manner approved by the CRA. |

Marked special containers returned to excise warehouse licensee

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| Refund – wine in special containers para 187(a) | 26. When a marked special container of wine is returned to the excise warehouse licensee who supplied it, and who paid the duty on the wine, that licensee may apply for a refund of the excise duty paid on the quantity of wine remaining in the marked special container, provided that the licensee destroys the wine in the approved manner. |
| Time limits para 187(b) | 27. The excise warehouse licensee must apply for a refund within two years after the container is returned to their warehouse. |
| Contacting the CRA | 28. Excise warehouse licensees must contact their regional excise duty office for approval of the method of destroying wine. Additional information on obtaining approval of a method to destroy wine will be available in Excise Duty Memorandum 4.4.2, <i>Destruction of Wine</i> . |
| | 29. Additional information on refunds of excise duty is available in Excise Duty Memorandum 10.3.1, <i>Refunds</i> . |

Reporting

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| By a wine licensee | 30. Bulk wine removed from a wine licensee’s inventory for packaging in a marked special container, or returned to bulk inventory, should be reported on the B265, <i>Excise Duty Return – Wine Licensee</i> as follows: <ul style="list-style-type: none"> • Removals: under “<i>Reductions to Bulk Inventory</i>” in the “<i>Packaging activities</i>” section and in the relevant column, enter the total quantity of bulk wine that has been removed and placed in marked special containers. • Returns: under “<i>Additions to Bulk Inventory</i>” and on the line “<i>Packaged wine returned to bulk wine inventory</i>” and in the relevant column, include the total quantity of wine that has been returned to bulk inventory from marked special containers. |
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By an excise warehouse licensee

31. Marked special containers of wine entered into an excise warehouse, returned to bulk inventory of a wine licensee, or removed to the duty-paid market from an excise warehouse should be reported on the B262, *Excise Duty Return – Excise Warehouse Licensee* as follows:

- Entered into: under “*Additions to Inventory*” and on the relevant line and in the relevant column, enter the total quantity of wine in marked special containers that has been entered into an excise warehouse.
- Returns: under “*Reductions to Inventory: Non-Duty-Paid*” and on the line “*Returned (to wine licensee)*” and in the relevant column, enter the total quantity of wine that has been removed from packaged inventory and returned to wine licensees.
- Removals: under “*Reductions to Inventory: Duty-Paid*” and in the relevant column, enter the total quantity of wine in marked special containers that has been removed from the excise warehouse and upon which duty has been paid.

Maintaining records

Keeping records ss 206(1)

32. Every licensee under the Act is required to maintain all records that are necessary to determine whether it is in compliance with the Act.

33. Failure by a licensee to adequately account for wine in its possession may result in an assessment or enforcement action, as provided for in the Act.

34. Additional information on the requirement to maintain books and records is available in Excise Duty Memorandum 9.1.1, *General Requirements for Books and Records*.

Contraventions and penalties

Failure to comply

35. If a person fails to comply with the restrictions of their licence, they may be subject to a penalty or guilty of a contravention under the Act.

Enforcement Part 6

36. Additional information on contraventions and penalties will be provided in Excise Duty Memorandum 11.2.1, *Contraventions and Penalties*.

All of the memoranda in the Excise Duty Memoranda Series are available on the CRA Web site at www.cra-arc.gc.ca/menu/EXMS-e.html.